

BOARD OF APPEALS  
for  
MONTGOMERY COUNTY

Stella Werner Council Office Building  
100 Maryland Avenue  
Rockville, Maryland 20850

**Case No. S-2553**

**PETITION OF EDWARD L. AND FRANCES L. GARFINKLE**

OPINION OF THE BOARD  
(Public Hearing Date: January 17, 2003)  
(Effective Date of Opinion: March 14, 2003)

Case No. S-2553 is an application for a special exception pursuant to Section 59-G-2.00 (Accessory Apartment) of the Zoning Ordinance to permit an existing accessory apartment.

Pursuant to the authority contained in Section 59-A-4.125 of the Montgomery County Code, the Board referred the application to the Hearing Examiner for Montgomery County to conduct a public hearing. The hearing was held on January 17, 2003, and on February 18, 2003, the Hearing Examiner issued a Report and Recommendation for approval of the special exception.

The subject property is Lot 30, 31 and 32, Block B, Crestview Subdivision, located at 4949 Allan Road, Bethesda, Maryland 20816, in the R-60 Zone.

Decision of the Board:                      Special Exception **granted**, subject  
to conditions enumerated below.

The Board of Appeals considered the Report and Recommendation at its Worksession on March 5, 2003. On a motion by Angelo M. Caputo, seconded by Allison Ishihara Fultz, with Donna L. Barron and Donald H. Spence in agreement, and Louise L. Mayer dissenting, the Board voted to adopt the Report and Recommendation and **grant** the special exception subject to the following conditions:

1. Petitioners shall be bound by their testimony and exhibits of record, including Exhibit Nos. 3, 4, 6 (a)-(b), 7 (a)-(b), 11, and 12, to the extent that such evidence and representations are identified in the Hearing Examiner's Report and Recommendation and in the opinion of the Board.

2. The Petitioners are bound by all of the conditions set out in the Memorandum of Kevin Martell, Housing Code Field Supervisor [Exhibit No. 12].

3. Petitioners must permit any occupant of the proposed accessory apartment to use two of their four off-street parking spaces and must limit any such occupant to housing two vehicles in the vicinity of the property, which must occupy the two referenced off-street parking spaces.

4. The number of occupants of the accessory apartment shall be limited according to the provisions of the Montgomery County Housing Code and based upon the square footage of the accessory apartment.

5. Petitioners must reside at the subject property and may receive compensation for only one dwelling unit.

5. The special exception is granted to Petitioners only.

The Board adopted the following Resolution:

**BE IT RESOLVED** by the Board of Appeals for Montgomery County, Maryland that the opinion stated above is adopted as the Resolution required by law as its decision on the above-entitled petition.

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Donald H. Spence, Jr.  
Chairman, Montgomery County Board of Appeals

Entered in the Opinion Book  
of the Board of Appeals for  
Montgomery County, Maryland  
this 14<sup>th</sup> day of March, 2003.

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Katherine Freeman  
Executive Secretary to the Board

**NOTE:**

Any request for rehearing or reconsideration must be filed within fifteen (15) days after the date the Opinion is mailed and entered in the Opinion Book (See Section 59-A-4.63 of the County Code). Please see the Board's Rules of Procedure for specific instructions for requesting reconsideration.

Any decision by the County Board of Appeals may, within thirty (30) days after the decision is rendered, be appealed by any person aggrieved by the decision of the Board and a party to the proceeding before it, to the Circuit Court for Montgomery County, in accordance with the Maryland Rules of Procedure.